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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Bruce A. SCHOFIELD et al. :
Application No. 09/931,643 :
Filed: August 15, 2001 :
Attorney Docket No. 120-173 :

ON PETITION

This is a decision on the petition, filed May 31, 2002 and resubmitted November 4, 2002, which is being treated as a petition under (1) 37 CFR 1.47(a) to accept this application notwithstanding the absence of the signature of a non-signing inventor and (2) the petition, filed February 6, 2007, under 37 CFR 1.183 requesting waiver of the requirements of 37 CFR 1.48(a)(2).

The petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.48(a)(2) and amend the inventive entity to delete Andre N. Fredette is **GRANTED**.

The petition under 37 CFR 1.47(a) is **GRANTED**.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

MPEP 409.03(a) states:

All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

37 CFR 1.48(f)(1) states:

Nonprovisional application—filing executed oath/declaration corrects inventorship. If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. See §§ 1.41(a)(4) and 1.497(d) and (f) for submission of an executed oath or declaration to enter the national stage under 35 U.S.C. 371 naming an inventive entity different from the inventive entity set forth in the international stage.

37 CFR 1.64(a) states:

The oath or declaration (§ 1.63), including any supplemental oath or declaration (§ 1.67), must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43, 1.47, or § 1.67.

In the instant application petitioner initially filed on August 15, 2001 both an application data sheet and an unexecuted oath or declaration naming three inventors. On May 31, 2002, petitioner submitted the instant petition along with a Rule 47 oath or declaration which was executed by Bruce A. Schofield but was not executed by James V. Luciani and an added a fourth inventor Andre N. Fredette. According to 37 CFR 1.48(f)(1) the named inventive entity was fixed by the partially executed May 31, 2002 declaration. On November 4, 2002 petitioner filed a substitute Rule 47 petition that named only the actual inventors of the subject matter of the instant application, i.e., Bruce A. Schofield, James V. Luciani, and Michael J. Craren along with a petition under 37 CFR 1.48(a) to remove Andre N. Fredette as a named inventor. The petition under 37 CFR 1.48(a) was dismissed in the decision mailed January 29, 2007. A petition under 37 CFR 1.183 waive the requirement of 37 CFR 1.48(a)(2) and amend the inventive entity to delete Andre N. Fredette was filed February 6, 2007.

Under the circumstances of this case, and in view of the petition requesting waiver of the rules granted by this decision, the USPTO will amend, on petition, the inventive entity to delete Andre N. Fredette.

In view of the above, the application contains an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116.

Petitioner has shown that the non-signing inventor, James V. Luciani, has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Technology Center Art Unit 2613 for further processing commensurate with this decision.

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099.

A handwritten signature in black ink, appearing to read 'B. Hearn', with a long horizontal flourish extending to the right.

Brian Hearn
Petitions Examiner
Office of Petitions

Encl. Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES V. LUCIANI
9 SHADY LANE
ACTON, MA 01720

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APR 10 2007

OFFICE OF PETITIONS

In re Application of
Bruce A. SCHOFIELD et al.
Application No. 09/931,643
Filed: August 15, 2001
For: FORMULATIONS FOR THE TREATMENT OF PAIN

Dear Mr. Luciani:

You are named as a sole inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Telephone inquiries regarding this communication should be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: McGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON MA 01720



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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLMS	IND CLMS
09/931,643	08/15/2001	2613	1830	120-173	52	4

34845
 McGUINNESS & MANARAS LLP
 125 NAGOG PARK
 ACTON, MA 01720

CONFIRMATION NO. 2705

CORRECTED FILING RECEIPT



OC000000023308746

Date Mailed: 04/10/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Bruce A. Schofield, Tyngsboro, MA;
 James V. Luciani, Acton, MA;
 Michael J. Craren, Holliston, MA;

Power of Attorney: The patent practitioners associated with Customer Number 28901.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/225,594 08/15/2000

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US09/931,643**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

OPTICAL SWITCH ROUTER

Preliminary Class

398

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).